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AN ACT
RELATING TO EDUCATIONAL RETIREMENT; MAKING TECHNICAL
AMENDMENTS TO THE EDUCATIONAL RETIREMENT ACT; CLARIFYING THE
DEFINITION OF SALARY; SPECIFYING HOW MEETINGS MAY BE
CANCELED OR RESCHEDULED; ALLOWING THE EDUCATIONAL RETIREMENT
BOARD TO DETERMINE THE INTEREST RATE PAID ON MEMBER AND
BENEFICIARY REFUNDS; ALLOWING THE BOARD TO PROVIDE BY RULE
FOR EXCEPTIONS TO THE PROHIBITION ON WORK DURING RETIREMENT;
PROVIDING FOR AN EXCEPTION TO MANDATORY RETIREMENT;
REQUIRING THAT A PERSON MUST BE EMPLOYED TO PURCHASE ALLOWED
SERVICE CREDIT; EXCEPTING PERSONS WITH PERMANENT
DISABILITIES FROM ANNUAL
RE-EXAMINATION; LIMITING ASSIGNABILITY OF CONTRIBUTIONS OR
BENEFITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-11-2 NMSA 1978 (being Laws 1967,
Chapter 16, Section 126, as amended) is amended to read:

"22-11-2. DEFINITIONS. -- As used in the Educational
Retirement Act:

A. "member" means an employee, except for a
participant or a retired member, coming within the
provisions of the Educational Retirement Act;

B. "regular member" means:
(1) a person regularly employed as a

1 teaching, nursing or administrative employee of a state
2 educational institution, except for:

3 (a) a participant; or

4 (b) all employees of a general
5 hospital or outpatient clinics thereof operated by a state
6 educational institution named in Article 12, Section 11 of
7 the constitution of New Mexico;

8 (2) a person regularly employed as a
9 teaching, nursing or administrative employee of a junior
10 college or community college created pursuant to Chapter 21,
11 Article 13 NMSA 1978, except for a participant;

12 (3) a person regularly employed as a
13 teaching, nursing or administrative employee of a technical
14 and vocational institute created pursuant to the Technical
15 and Vocational Institute Act, except for a participant;

16 (4) a person regularly employed as a
17 teaching, nursing or administrative employee of the New
18 Mexico boys' school, the New Mexico girls' school, the Los
19 Lunas medical center or a school district or as a certified
20 school instructor of a state institution or agency providing
21 an educational program and holding a standard or substandard
22 certificate issued by the state board, except for a
23 participant;

24 (5) a person regularly employed by the
25 department of education or the board holding a standard or

1 substandard certificate issued by the state board at the
2 time of commencement of such employment;

3 (6) a member classified as a regular member
4 in accordance with the rules of the board;

5 (7) a person regularly employed by the New
6 Mexico activities association holding a standard certificate
7 issued by the state board at the time of commencement of
8 such employment; or

9 (8) a person regularly employed by a
10 regional education cooperative holding a standard
11 certificate issued by the state board at the time of
12 commencement of such employment;

13 C. "provisional member" means a person not
14 eligible to be a regular member but who is employed by a
15 local administrative unit designated in Subsection B of this
16 section; provided, however, that employees of a general
17 hospital or outpatient clinics thereof operated by a state
18 educational institution named in Article 12, Section 11 of
19 the constitution of New Mexico are not provisional members;

20 D. "local administrative unit" means an
21 employing agency however constituted that is directly
22 responsible for the payment of compensation for the
23 employment of members or participants;

24 E. "beneficiary" means a person having an
25 insurable interest in the life of a member or a participant

1 designated by written instrument duly executed by the member
2 or participant and filed with the director to receive a
3 benefit pursuant to the Educational Retirement Act that may
4 be received by someone other than the member or participant;

5 F. "employment" means employment by a local
6 administrative unit that qualifies a person to be a member
7 or participant;

8 G. "service employment" means employment that
9 qualifies a person to be a regular member;

10 H. "provisional service employment" means
11 employment that qualifies a person to be a provisional
12 member;

13 I. "prior employment" means employment performed
14 prior to the effective date of the Educational Retirement
15 Act that would be service employment or provisional service
16 employment if performed thereafter;

17 J. "service credit" means that period of time
18 with which a member is accredited for the purpose of
19 determining his eligibility for and computation of
20 retirement or disability benefits;

21 K. "earned service credit" means that period of
22 time during which a member was engaged in employment or
23 prior employment with which he is accredited for the purpose
24 of determining his eligibility for retirement or disability
25 benefits;

1 L. "allowed service credit" means that period of
2 time during which a member has performed certain nonservice
3 employment with which he may be accredited, as provided in
4 the Educational Retirement Act, for the purpose of computing
5 retirement or disability benefits;

6 M. "retirement benefit" means an annuity paid
7 monthly to members whose employment has been terminated by
8 reason of their age;

9 N. "disability benefit" means an annuity paid
10 monthly to members whose employment has been terminated by
11 reason of a disability;

12 O. "board" means the educational retirement
13 board;

14 P. "fund" means the educational retirement fund;

15 Q. "director" means the educational retirement
16 director;

17 R. "medical authority" means a medical doctor
18 within the state or as provided in Subsection D of Section
19 22-11-36 NMSA 1978 either designated or employed by the
20 board to examine and report on the physical condition of
21 applicants for or recipients of disability benefits;

22 S. "actuary" means a person trained and
23 regularly engaged in the occupation of calculating present
24 and projected monetary assets and liabilities under annuity
25 or insurance programs;

1 T. "actuarial equivalent" means a sum paid as a
2 current or deferred benefit that is equal in value to a
3 regular benefit, computed upon the basis of interest rates
4 and mortality tables;

5 U. "contributory employment" means employment
6 for which contributions have been made by both a member and
7 a local administrative unit pursuant to the Educational
8 Retirement Act;

9 V. "qualifying state educational institution"
10 means the university of New Mexico, New Mexico state
11 university, New Mexico institute of mining and technology,
12 New Mexico highlands university, eastern New Mexico
13 university, western New Mexico university, Albuquerque
14 technical-vocational institute, Clovis community college,
15 Luna vocational-technical institute, Mesa technical college,
16 New Mexico junior college, northern New Mexico state school,
17 San Juan college and Santa Fe community college;

18 W. "participant" means:

19 (1) a person regularly employed as a
20 faculty or professional employee of the university of New
21 Mexico, New Mexico state university, New Mexico institute of
22 mining and technology, New Mexico highlands university,
23 eastern New Mexico university or western New Mexico
24 university who first becomes employed with such an
25 educational institution on or after July 1, 1991, or a

1 person regularly employed as a faculty or professional
2 employee of the Albuquerque technical-vocational institute,
3 Clovis community college, Luna vocational-technical
4 institute, Mesa technical college, New Mexico junior
5 college, northern New Mexico state school, San Juan college
6 or Santa Fe community college who is first employed by the
7 institution on or after July 1, 1999 and who elects,
8 pursuant to Section 22-11-47 NMSA 1978, to participate in
9 the alternative retirement plan; and

10 (2) a person regularly employed who
11 performs research or other services pursuant to a contract
12 between a qualifying state educational institution and the
13 United States government or any of its agencies who elects,
14 pursuant to Section 22-11-47 NMSA 1978, to participate in
15 the alternative retirement plan, provided that the research
16 or other services are performed outside the state;

17 X. "salary" means the compensation or wages paid
18 to a member or participant by any local administrative unit
19 for services rendered. "Salary" includes payments made for
20 annual or sick leave and payments for additional service
21 provided to related activities, but does not include
22 payments for sick leave not taken unless the payment for the
23 unused sick leave is made through continuation of the member
24 on the regular payroll for the period represented by that
25 payment and does not include allowances or reimbursements

1 for travel, housing, food, equipment or similar items;

2 Y. "alternative retirement plan" means the
3 retirement plan provided for in Sections 22-11-47 through
4 22-11-52 NMSA 1978; and

5 Z. "retired member" means a person whose
6 employment has been terminated by reason of age and who is
7 receiving or is eligible to receive retirement benefits. "

8 Section 2. Section 22-11-4 NMSA 1978 (being Laws 1967,
9 Chapter 16, Section 128) is amended to read:

10 "22-11-4. BOARD--REGULAR AND SPECIAL MEETINGS. --

11 A. The board shall hold regular meetings four
12 times each year and may, by its bylaws, provide for
13 additional regular meetings. Prior to each regular meeting,
14 written notice shall be given to each member of the board
15 specifying the time and place of the regular meeting.

16 B. Special meetings of the board may be called
17 by the chairman or by any three members of the board.
18 Written notice of the special meeting shall be sent to each
19 member of the board at least three days in advance of the
20 special meeting.

21 C. If not in violation of Subsection A or B of
22 this section, the rules of the board or the Open Meetings
23 Act, the chairman or any of three members of the board may
24 cancel or reschedule a meeting. "

25 Section 3. Section 22-11-9 NMSA 1978 (being Laws 1967,

1 Chapter 16, Section 133) is amended to read:

2 "22- 11-9. ACTUARY-- FEES. --

3 A. The board shall employ the services of an
4 actuary. The actuary shall prepare a table of actuarial
5 equivalents for use of the board and the director in
6 computing the value of advanced, deferred or optional
7 payment of benefits pursuant to the Educational Retirement
8 Act. The actuary shall also study the financial operations
9 of the Educational Retirement Act and shall make written
10 reports thereon to the board.

11 B. The board shall pay the actuary a reasonable
12 fee for his professional services.

13 C. Unless otherwise required by the governmental
14 accounting standards board of the American institute of
15 certified public accountants, an actuarial report shall be
16 conducted at least once every three years. "

17 Section 4. Section 22-11-15 NMSA 1978 (being Laws
18 1967, Chapter 16, Section 139, as amended) is amended to
19 read:

20 "22- 11- 15. FUND-- REFUNDS-- PAYMENTS. --

21 A. After filing written demand with the
22 director, a member is entitled to a refund of the total
23 amount of the member's contributions plus interest at a rate
24 set by the board, reduced by the sum of any disability
25 benefits previously received by the member, if:

1 (1) the member terminates employment for
2 reasons other than by retirement, disability or death;

3 (2) the member has exempted himself from
4 the Educational Retirement Act; or

5 (3) the member was not reemployed following
6 a period of disability during which he received disability
7 benefits.

8 B. The director may, at the request of a member,
9 make payment on behalf of the member for any or all of the
10 refund to an individual retirement account or a qualified
11 retirement plan that accepts rollovers.

12 C. If the amount of a deceased member's
13 contribution or residual contribution does not exceed the
14 sum of one thousand dollars (\$1,000) and no written claim is
15 made to the board for it within one year from the date of
16 the member's death, by his surviving beneficiary or the
17 member's estate, payment thereof may be made to the named
18 beneficiary or, if none is named, to the person the board
19 determines to be entitled to the contribution under the laws
20 of New Mexico. Any payment made by the board pursuant to
21 this subsection shall be a bar to a claim by any other
22 person.

23 D. The interest provided for in Subsection A of
24 this section shall apply only to contributions paid to the
25 fund after July 1, 1971 and on deposit in the fund for a

1 period of at least one fiscal year; provided that no such
2 interest shall be allowed on refunds of contributions that
3 were paid into the fund prior to July 1, 1971. "

4 Section 5. Section 22-11-26 NMSA 1978 (being Laws
5 1967, Chapter 16, Section 149, as amended) is amended to
6 read:

7 "22-11-26. DEATH DURING REEMPLOYMENT. -- If a member
8 dies during a period of reemployment following retirement
9 pursuant to the Educational Retirement Act, the benefits to
10 be paid shall be determined according to the following:

11 A. if the member did not elect to exercise
12 Option B or C pursuant to Subsection A of Section 22-11-29
13 NMSA 1978 at the time of first retirement, the member's
14 beneficiary or estate shall receive an amount equal to the
15 sum of the member's contributions, including contributions
16 made by the member during the period of last reemployment,
17 plus accumulated interest at the rate set by the board, less
18 the total benefits received prior to the last reemployment;
19 or

20 B. if a retirement benefit has been paid to the
21 member pursuant to either Option B or Option C of Subsection
22 A of Section 22-11-29 NMSA 1978 prior to reemployment, the
23 reemployed member shall be considered as retiring on the day
24 preceding the date of death, and the benefits due the
25 surviving beneficiary, computed as of that date, shall be

1 commenced effective on the date of death in accordance with
2 the terms of the option elected."

3 Section 6. Section 22-11-27 NMSA 1978 (being Laws
4 1967, Chapter 16, Section 150, as amended) is amended to
5 read:

6 "22-11-27. DEFERRED RETIREMENT--RESTRICTION. --

7 A. A member eligible for retirement may continue
8 in employment and shall continue to pay contributions as
9 provided by the Educational Retirement Act.

10 B. A member may terminate his employment and
11 retire at any time after his age and his earned service-
12 credit equal the sum of seventy-five if the contributions he
13 has made are left in the fund.

14 C. A member having five years or more of earned
15 service-credit may terminate his employment and retire at
16 any time after reaching the age of sixty-five years if the
17 contributions he has made are left in the fund.

18 D. No member shall be on a retirement status
19 while engaged in employment unless the employment falls
20 within exceptions established by statute or rule of the
21 board."

22 Section 7. Section 22-11-29 NMSA 1978 (being Laws
23 1967, Chapter 16, Section 152, as amended) is amended to
24 read:

25 "22-11-29. RETIREMENT BENEFIT OPTIONS. --

1 A. Upon retirement pursuant to the Educational
2 Retirement Act, a member may elect, and such election shall
3 be irrevocable, to receive the actuarial equivalent of his
4 retirement benefit, as provided in Section 22-11-30 NMSA
5 1978, to be effective on his retirement in any one of the
6 following optional forms:

7 (1) OPTION B. A reduced annuity payable
8 during the member's life with provision that upon the
9 member's death the same annuity shall be continued during
10 the life of and paid to the beneficiary designated by the
11 member in writing at the time of electing this option; or

12 (2) OPTION C. A reduced annuity payable
13 during the member's life with provision that upon the
14 member's death one-half of this same annuity shall be
15 continued during the life of and paid to the beneficiary
16 designated by the member in writing at the time of electing
17 this option.

18 B. In the case of Options B and C of Subsection
19 A of this section, the actuarial equivalent of the member's
20 retirement benefit shall be computed on the basis of the
21 lives of both the member and the beneficiary.

22 C. In the event that the named beneficiary of a
23 retired member who elected Option B or C of Subsection A of
24 this section at the time of retirement predeceases the
25 retired member, the annuity of the retired member shall be

1 adjusted by adding an amount equal to the amount by which
2 the annuity of the retired member was reduced at retirement
3 as a result of the election of Option B or C. The
4 adjustment authorized in this subsection shall be made as
5 follows:

6 (1) beginning on the first month following
7 the month in which the named beneficiary of a retiree dies
8 applicable to an annuity received by a retiree who retires
9 after June 30, 1987; or

10 (2) beginning on July 1, 1987 applicable to
11 an annuity received by a retiree who retired prior to July
12 1, 1987 and otherwise qualifies for the adjustment;
13 provided, however, no adjustment shall be made
14 retroactively.

15 D. In the event of the death of the member who
16 has not retired and who has completed at least five years'
17 earned service credit, the member shall be considered as
18 retiring on the first day of the month following the date of
19 death, and the benefits due the surviving beneficiary,
20 computed as of that date, shall, except as provided in
21 Subsection G of this section, be commenced effective on the
22 first day of such month in accordance with the terms of
23 Option B of Subsection A of this section. In lieu of the
24 provisions of Option B, the surviving beneficiary may elect
25 to receive payment of all the contributions made by the

1 member, plus interest at the rate set by the board reduced
2 by the sum of any disability benefits previously received by
3 the member, or the surviving beneficiary may choose to defer
4 receipt of the survivor's benefit to whatever age the
5 beneficiary chooses up to the time the member would have
6 attained age sixty. If the benefit is thus deferred, it
7 shall be calculated as though the member had retired on the
8 first day of the month in which the beneficiary elects to
9 receive the benefit. In the event of the death of the
10 beneficiary after the death of the member and prior to the
11 date on which the beneficiary has elected to receive the
12 beneficiary's benefit, the estate of the beneficiary shall
13 be entitled to a refund of the member's contributions plus
14 interest at the rate earned by the fund during the preceding
15 fiscal year, reduced by the sum of any disability benefits
16 previously received by the member.

17 E. In the case of death of a retired member who
18 did not elect either Option B or C of Subsection A of this
19 section and before the benefits paid to him have equaled the
20 sum of his accumulated contributions to the fund plus
21 accumulated interest at the rate set by the board, the
22 balance shall be paid to the beneficiary designated in
23 writing to the director by the member or, if no beneficiary
24 was designated, to the estate of the member.

25 F. No benefit shall be paid pursuant to this

1 section if the member's contributions have been refunded
2 pursuant to Section 22-11-15 NMSA 1978.

3 G. In the case of death of a member with less
4 than five years' earned service credit or death of a member
5 who has filed with the director a notice rejecting the
6 provisions of Subsection C of this section, which notice
7 shall be revocable by the member at any time prior to
8 retirement, the member's contributions to the fund plus
9 interest at the rate set by the board shall be paid to the
10 beneficiary designated in writing to the director by the
11 member or, if no beneficiary was designated, to the estate
12 of the member.

13 H. Any elections of either Option B or C of
14 Subsection A of this section on file with the director by
15 members who have not retired prior to June 30, 1984 are
16 void. "

17 Section 8. Section 22-11-30 NMSA 1978 (being Laws
18 1967, Chapter 16, Section 153, as amended) is amended to
19 read:

20 "22-11-30. RETIREMENT BENEFITS. --

21 A. Retirement benefits for a member retired
22 pursuant to the Educational Retirement Act on or before
23 June 30, 1967 shall be paid monthly and shall be one-twelfth
24 of a sum equal to one and one-half percent of the first four
25 thousand dollars (\$4,000) of the member's average annual

1 salary and one percent of the remainder of the member's
2 average annual salary multiplied by the number of years of
3 the member's total service credit.

4 B. Retirement benefits for a member retired
5 pursuant to the Educational Retirement Act on or after
6 July 1, 1967 but on or before June 30, 1971 shall be paid
7 monthly and shall be one-twelfth of a sum equal to one and
8 one-half percent of the first six thousand six hundred
9 dollars (\$6,600) of the member's average annual salary and
10 one percent of the remainder of the member's average annual
11 salary multiplied by the number of years of the member's
12 total service credit.

13 C. Retirement benefits for a member retired
14 pursuant to the Educational Retirement Act on or after
15 July 1, 1971 but on or before June 30, 1974 shall be paid
16 monthly and shall be one-twelfth of a sum equal to one and
17 one-half percent of the member's average annual salary
18 multiplied by the number of years of the member's total
19 service credit.

20 D. Retirement benefits for a member retired
21 pursuant to the Educational Retirement Act on or before
22 June 30, 1974 but returning to employment on or after July
23 1, 1974 for a cumulation of one or more years shall be
24 computed pursuant to Subsection E of this section.

25 Retirement benefits for a member retired pursuant to the

1 Educational Retirement Act on or before June 30, 1974 but
2 returning to employment on or after July 1, 1974 for a
3 cumulation of less than one year shall be computed pursuant
4 to Subsection A of this section if his date of last
5 retirement was on or before June 30, 1967 or pursuant to
6 Subsection B of this section if his date of last retirement
7 was on or after July 1, 1967 but not later than June 30,
8 1971 or pursuant to Subsection C of this section if his date
9 of last retirement was on or after July 1, 1971 but not
10 later than June 30, 1974.

11 E. Retirement benefits for a member age sixty or
12 over, retired pursuant to the Educational Retirement Act on
13 or after July 1, 1974 but not later than June 30, 1987,
14 shall be paid monthly and shall be one-twelfth of a sum
15 equal to:

16 (1) one and one-half percent of the
17 member's average annual salary multiplied by the number of
18 years of service credit for:

19 (a) prior employment; and
20 (b) allowed service credit for service
21 performed prior to July 1, 1957, except United States
22 military service credit purchased pursuant to Paragraph (3)
23 of Subsection A of Section 22-11-34 NMSA 1978; plus

24 (2) two percent of the member's average
25 annual salary multiplied by the number of years of service

1 credit for:

2 (a) contributory employment;

3 (b) allowed service credit for service
4 performed after July 1, 1957; and

5 (c) United States military service
6 credit for service performed prior to July 1, 1957 and
7 purchased pursuant to Paragraph (3) of Subsection A of
8 Section 22-11-34 NMSA 1978.

9 F. Retirement benefits for a member age sixty or
10 over, retired pursuant to the Educational Retirement Act on
11 or after July 1, 1987 but not later than June 30, 1991,
12 shall be paid monthly and shall be one-twelfth of a sum
13 equal to two and fifteen hundredths percent of the member's
14 average annual salary multiplied by the number of years of
15 the member's total service credit; provided that this
16 subsection shall not apply to any member who was retired in
17 any of the four quarters ending on June 30, 1987 without
18 having accumulated not less than 1.0 years earned service
19 credit after June 30, 1987.

20 G. Retirement benefits for a member age sixty or
21 over, retired pursuant to the Educational Retirement Act on
22 or after July 1, 1991, shall be paid monthly and shall be
23 one-twelfth of a sum equal to two and thirty-five hundredths
24 percent of the member's average annual salary multiplied by
25 the number of years of the member's total service credit;

1 provided that this subsection shall not apply to any member
2 who was retired in any of the four consecutive quarters
3 ending on June 30, 1991 without having accumulated at least
4 one year earned service credit beginning on or after July 1,
5 1991.

6 H. A member's average annual salary, pursuant to
7 this section, shall be computed on the basis of the last
8 five years for which contribution was made or upon the basis
9 of any consecutive five years for which contribution was
10 made by the member, whichever is higher. Unless otherwise
11 required by the provisions of the Internal Revenue Code of
12 1986, members shall begin receiving retirement benefits by
13 age seventy and six months, or upon termination of
14 employment, whichever occurs later."

15 Section 9. Section 22-11-33 NMSA 1978 (being Laws
16 1967, Chapter 16, Section 156) is amended to read:

17 "22-11-33. EARNED SERVICE CREDIT. --

18 A. Upon a member filing an application for
19 retirement or disability benefits, earned service credit for
20 the time of contributory employment shall be certified by
21 the director and subject to the review of the board.

22 B. A member shall be certified to have earned
23 service credit for that period of time when he was engaged
24 in prior employment. Earned service credit shall not be
25 certified for that period of employment for which the

1 contributions have been withdrawn from the fund by the
2 member.

3 C. Earned service credit shall be certified for
4 periods of employment interrupted for some cause other than
5 retirement or disability. This shall be done if a member
6 withdrawing contributions from the fund for this period
7 returns to the fund, for each year of earned service credit
8 desired, a sum equal to the member's contribution to the
9 fund during this period and an additional sum as interest
10 compounded annually from the date the contributions were
11 withdrawn to the date of payment of the amount of returned
12 contributions at the rate of interest set by the board.
13 These payments may be made in installments, and, if the
14 payments made to the fund are insufficient for the
15 restoration of any full year of earned service credit, the
16 member shall be certified to have acquired earned service
17 credit for that period of time which is proportionate to the
18 payments made. "

19 Section 10. Section 22-11-34 NMSA 1978 (being Laws
20 1967, Chapter 16, Section 157, as amended) is amended to
21 read:

22 "22-11-34. ALLOWED SERVICE CREDIT. --

23 A. A member shall be certified to have acquired
24 allowed service credit pursuant to the Internal Revenue Code
25 of 1986 for those periods of time when he was:

1 (1) employed prior to July 1, 1967 in a
2 federal educational program within New Mexico, including
3 United States Indian schools and civilian conservation corps
4 camps. This service credit shall be allowed without
5 contribution;

6 (2) engaged in military service that
7 interrupted his employment in New Mexico if he returned to
8 his employment within eighteen months following honorable
9 discharge. This service credit shall be allowed without
10 contribution;

11 (3) engaged in United States military
12 service or the commissioned corps of the public health
13 service from which he was honorably discharged if he
14 contributes to the fund a sum equal to ten and one-half
15 percent of his average annual salary for that period of time
16 for which he has acquired earned service credit pursuant to
17 the Educational Retirement Act and subject to the federal
18 Uniformed Services Employment and Reemployment Rights Act of
19 1994 for each year of service credit he desires to purchase.
20 Average annual salary shall be determined in accordance with
21 rules promulgated by the board but shall always be based on
22 actual salaries earned by the member where the actual
23 salaries can be ascertained by the board. The employer's
24 contributions for service credit shall not be paid by the
25 employer. The purchase of service credit provided in this

1 section shall be carried out by the member within three
2 years after the date of the member's employment following
3 service; or

4 (4) employed:

5 (a) in a public school or public
6 institution of higher learning in another state, territory
7 or possession of the United States;

8 (b) in a United States military
9 dependents' school operated by a branch of the armed forces
10 of the United States;

11 (c) as provided in Paragraph (1) of
12 this subsection after July 1, 1967; or

13 (d) in a private school or institution
14 of higher learning in New Mexico whose education program is
15 accredited or approved by the state board at the time of
16 employment.

17 B. Effective July 1, 2001, the member or
18 employer under Paragraph (4) of Subsection A of this section
19 shall contribute to the fund for each year of allowed
20 service credit desired an amount equal to the actuarial
21 value of the service purchased as defined by the board.
22 Payment pursuant to Paragraph (4) of Subsection A of this
23 section may be made in installments, at the discretion of
24 the board, over a period not to exceed one year and, if the
25 sum paid does not equal the amount required for any full

1 year of allowed service credit, the member shall acquire
2 allowed service credit for that period of time that is
3 proportionate to the payment made. Half credit may be
4 allowed without contribution for not more than ten years of
5 the educational service described by Subparagraph (a) of
6 Paragraph (4) of Subsection A of this section if that
7 service was prior to June 13, 1953 and if the member was
8 employed in New Mexico prior to June 13, 1953 in a position
9 covered by the Educational Retirement Act or a law repealed
10 by that act. No allowed service credit shall be purchased
11 pursuant to Paragraph (4) of Subsection A of this section
12 unless the member is currently employed by a local
13 administrative unit.

14 C. No member shall be certified to have acquired
15 allowed service credit:

16 (1) under any single paragraph or the
17 combination of only Paragraphs (1) and (4) or only
18 Paragraphs (2) and (3) of Subsection A of this section in
19 excess of five years; or

20 (2) in excess of ten years for any other
21 combination of Paragraphs (1) through (4) of Subsection A of
22 this section.

23 D. The provisions of this section are made
24 applicable to the services described prior to as well as
25 after the effective date of the Educational Retirement Act. "

1 Section 11. Section 22- 11- 36 NMSA 1978 (being Laws
2 1967, Chapter 16, Section 159) is amended to read:

3 "22- 11- 36. DISABILITY BENEFIT- -CONTINUED ELIGIBILITY- -
4 RE- EXAMINATIONS. - -

5 A. Unless designated by the medical authority as
6 being permanently disabled, to continue to receive
7 disability benefits, a member shall, on the anniversary date
8 in each year of his being placed on a disability status,
9 present himself to the medical authority for a medical
10 re- examination. The medical authority shall certify to the
11 director after each medical examination whether there is a
12 substantial betterment of the member's disability. In the
13 event a substantial betterment of the disability is
14 reported, the board shall determine whether the member is
15 totally disabled for employment and unable to obtain and
16 retain other gainful employment commensurate with his
17 background, education and experience. If the board
18 determines that the member is no longer disabled, the
19 payment of the disability benefits shall cease.

20 B. Payment of disability benefits to a member
21 shall be suspended if a certificate of medical re-
22 examination by the medical authority is not filed with the
23 director within thirty days after the date upon which the
24 member should have been re- examined where the failure to
25 file the certificate was due to the unexcused failure or the

1 refusal of the member to report for the medical re-
2 examination. Payment of disability benefits shall be
3 resumed only after the member has complied with the
4 requirements of the Educational Retirement Act. A member
5 shall have no right or claim for benefits withheld during a
6 period of suspension.

7 C. The board may, in its discretion, require
8 further or more frequent medical examinations of members
9 having a disability status.

10 D. A member receiving disability benefits who is
11 unable to report for a medical re-examination because of his
12 physical condition or because he resides outside the state
13 shall notify the director of this fact not later than
14 fifteen days in advance of the date for the medical re-
15 examination. The board shall designate a medical doctor in
16 the vicinity of the residence of the member to make the
17 medical
18 re-examination and to report the findings to the board.

19 E. Upon a determination by the board, a member's
20 status may be changed from permanently disabled to
21 temporarily disabled or no longer disabled. "

22 Section 12. Section 22-11-42 NMSA 1978 (being Laws
23 1967, Chapter 16, Section 165, as amended) is amended to
24 read:

25 "22-11-42. NONASSIGNABILITY--DIVISION OF FUNDS AS

1 COMMUNITY PROPERTY--CHILD SUPPORT OBLIGATIONS. --

2 A. Except as specifically provided in the
3 Educational Retirement Act and the provisions of
4 Subsections B and C of this section, contributions or
5 benefits mentioned in the Educational Retirement Act shall
6 not be assignable either in law or in equity or be subject
7 to execution, levy, attachment, garnishment, guarantee fund
8 or similar assessment or any other legal process.

9 B. A court of competent jurisdiction, solely for
10 the purposes of effecting a division of community property,
11 may provide by appropriate order for a determination and
12 division of a community interest in the pensions or other
13 benefits provided for in the Educational Retirement Act. In
14 so doing, the court shall fix the manner in which the
15 warrants shall be issued, may order direct payments by the
16 board to a person with a community interest in the pensions
17 or benefits and may restrain the refund of member or
18 participant contributions. The court shall not alter the
19 manner in which the amount of pensions or other benefits is
20 calculated by the board or a carrier or contractor for the
21 alternative retirement plan, nor shall the court cause any
22 increase in the actuarial present value of the pensions or
23 other benefits to be paid by the board or a carrier or
24 contractor for the alternative retirement plan. A payment,
25 ordered by a court pursuant to this subsection, shall only

1 be made when the member or participant terminates employment
2 and requests a refund or when the member or participant
3 retires or is otherwise entitled to receive benefits
4 pursuant to the Educational Retirement Act. In no case
5 shall a court order pursuant to this subsection result in
6 more money being paid from the fund or from an alternative
7 retirement plan, whether in a lump sum or in monthly
8 benefits, than would otherwise be payable.

9 C. A court of competent jurisdiction, solely for
10 the purposes of enforcing current or delinquent child
11 support obligations, may provide by appropriate order for
12 withholding amounts due in satisfaction of current or
13 delinquent child support obligations from the pensions or
14 other benefits provided for in the Educational Retirement
15 Act and for payment of such amounts to third parties. The
16 court shall not alter the manner in which the amount of
17 pensions or other benefits is calculated by the board or a
18 carrier or contractor for the alternative retirement plan.
19 The court shall not cause any increase in the actuarial
20 present value of the pensions or other benefits to be paid
21 by the board or a carrier or contractor for the alternative
22 retirement plan. Payments made pursuant to such orders
23 shall only be made when the member or participant terminates
24 employment and requests a refund of contributions or when
25 the member or participant retires; in no case shall more

1 money be paid out, either in a lump sum or in monthly
2 benefits, of the fund or alternative retirement plan in
3 enforcement of current or delinquent child support
4 obligations than would otherwise be payable. In no case
5 shall
6 a court order pursuant to this subsection result in more
7 money
8 being paid from the fund or from an alternative retirement
9 plan, whether in a lump sum or in monthly benefits, than
10 would
11 otherwise be payable. " _____

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